

Short Title: GSC-UELMA

A BILL TO BE ENTITLED

AN ACT TO ADOPT THE UNIFORM ELECTRONIC LEGAL MATERIALS ACT IN THIS
STATE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 8D/132A [or do as Article 84 of Chapter 143?].

"UNIFORM ELECTRONIC LEGAL MATERIAL ACT.

"SECTION []-1. SHORT TITLE. This [Chapter] may be cited as the Uniform
Electronic Legal Material Act.

"SECTION []-2. DEFINITIONS. ~~In~~ The following definitions apply in this
[Chapter]:

(1) Electronic.-- Relating to technology having electrical, digital, magnetic,
wireless, optical, electromagnetic, or similar capabilities.

(2) Legal material. — Any of the following, whether or not in effect:

a. ~~The [insert name of constitution of this state];~~ Reserved.

b. ~~The [insert name of session laws];~~ Reserved.

c. ~~The [insert name of state code]; [or]~~ Reserved.

d. ~~A state agency rule that has or had the effect of law[;] [or]~~ A rule adopted
under Chapter 150B of the General Statutes.

[e. The following categories of state administrative agency decisions [insert
categories of decisions to be included]][:] ~~[or]~~

[f. ~~Reported decisions of the following state courts: [specify courts]][:] [or]~~

Opinions of the North Carolina Supreme Court and the North Carolina Court of

1 Appeals.

2 [g. State court rules][:] ~~[or]~~

3 [h. [list any other category of legal material to be included]].

4 (3) Official publisher.--

5 a. ~~For [insert name of constitution of this state], the [insert appropriate agency or~~
6 ~~official];~~ Reserved.

7 b. ~~For [insert name of session laws], the [insert appropriate agency or official];~~
8 Reserved.

9 c. ~~For [insert name of state code], the [insert appropriate agency or official]; [or]~~
10 Reserved.

11 d. For a rule published in the ~~[insert name of administrative code];~~ North
12 Carolina Administrative Code, the ~~[insert appropriate agency or official]; [or]~~
13 Codifier of Rules or the Codifier's designee.

14 [d. ~~For a rule not published in the [insert name of administrative code], the state~~
15 ~~agency adopting the rule~~][:] ~~[or]~~ Reserved.

16 [f. For a state administrative agency decision included under paragraph (2)(E),
17 the [insert appropriate agency or official]][:] ~~[or]~~

18 [g. For ~~a state court decision included under paragraph (2)(F)~~, the [insert
19 ~~appropriate agency or official~~][:] ~~[or]~~ an opinion of the North Carolina Supreme
20 Court or the North Carolina Court of Appeals, the Appellate Reporter.

21 [h. For state court rules, the [insert appropriate agency or official]][:] ~~[or]~~

22 [i. For [any other category of legal material included], [insert appropriate agency
23 or official]].

24 (4) Publish.-- To display, present, or release to the public, or cause to be displayed,
25 presented, or released to the public, by the official publisher.

26 (5) Record.-- Information that is inscribed on a tangible medium or that is stored in an

1 electronic or other medium and is retrievable in perceivable form.

2 (6) State.-- A state of the United States, the District of Columbia, Puerto Rico, the
3 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
4 the United States.

5 **Legislative Note:** *With regard to Section 2(2), drafters will need to insert, in the place*
6 *indicated by bracketed language, the proper name or title for several types of state legal*
7 *material including the state constitution, session laws, statutory code, and administrative code,*
8 *as well as the proper name or title of other legal material, provided as alternatives, the*
9 *enacting state chooses to include in the act's coverage.*

10
11 *If additional legal material is added, each type should be identified by its proper name*
12 *or title and given its own subparagraph. If additional legal material is added to Section 2(2), a*
13 *corresponding addition must be made to Section 2(3).*

14
15 *With regard to Section 2(3), drafters will need to insert, in the place indicated by*
16 *bracketed language, the proper name or title for several types of state legal material, including*
17 *the state constitution, session laws, statutory code, and administrative code, as well as the*
18 *proper name or title of any other publications the enacting state includes in the act's coverage.*
19 *The name of the legal material inserted in place of the bracketed language must correspond*
20 *exactly with the name in the corresponding definition of legal material in Section 2(2).*

21
22 *Drafters will need to insert, in the place indicated by bracketed language, the proper*
23 *name of the agency or state officer or employee designated as the official publisher.*

24
25 *With regard to Section 2(3)(H), drafters may need to make distinctions between courts,*
26 *including courts of last resort, appellate level courts, and trial courts, including different types*
27 *and levels of trial courts, depending on how court rules are promulgated or approved in the*
28 *enacting state.*

29
30 **"SECTION []-3. APPLICABILITY.**

31 This [Chapter] applies to all legal material in an electronic record that is designated as
32 official under Section []-4 and first published electronically on or after [the effective date of
33 this [Chapter]].

34 **Legislative Note:** *To include a preexisting publication in the coverage of the act, the following*
35 *changes should be made. First, the present language of Section 3 should become subsection*
36 *(a). Second, subsection (b), as follows, should be added: "(b) This [act] applies to the*
37 *following legal material in an official electronic record that was first published before [the*
38 *effective date of this [act]]: [insert proper name or title here].".*

39
40 *If preexisting legal material is included in the act's coverage, drafters should include*
41 *the material in the definition of legal material in Section 2(2), and designate an official*
42 *publisher for the material in Section 2(3), as necessary.*
43

1 **"SECTION []-4. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.**

2 (a) If an official publisher publishes legal material only in an electronic record, the
3 publisher shall:

4 (1) Designate the electronic record as official; and

5 (2) Comply with Sections []-5, []-7, and []-8.

6 (b) An official publisher that publishes legal material in an electronic record and also
7 publishes the material in a record other than an electronic record may designate the electronic
8 record as official if the publisher complies with Sections []-5, []-7, and []-8.

9 **"SECTION []-5. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD.**

10 An official publisher of legal material in an electronic record that is designated as
11 official under Section []-4 shall authenticate the record. To authenticate an electronic record,
12 the publisher shall provide a method for a user to determine that the record received by the user
13 from the publisher is unaltered from the official record published by the publisher.

14 **"SECTION []-6. EFFECT OF AUTHENTICATION.**

15 (a) Legal material in an electronic record that is authenticated under Section []-5 is
16 presumed to be an accurate copy of the legal material.

17 (b) If another state has adopted a law substantially similar to this [Chapter], legal
18 material in an electronic record that is designated as official and authenticated by the official
19 publisher in that state is presumed to be an accurate copy of the legal material.

20 (c) A party contesting the authentication of legal material in an electronic record
21 authenticated under Section []-5 has the burden of proving by a preponderance of the evidence
22 that the record is not authentic.

23 (d) As used in this section, "legal material" includes the constitution, enactments of the
24 legislature, code of statutes, administrative rules or regulations that have the force of law,
25 reported decisions of courts of record, or rules of court (?) of another state or of the United
26 States that has adopted a law substantially similar to this Chapter [or that otherwise publishes

in an electronic record official versions of its constitution, enactments of the legislature, code of statutes, administrative rules or regulations that have the force of law, reported decisions of courts of record, or rules of court (?) and has adopted a method of authenticating the records that would comply with Section []-5?].

**"SECTION []-7. PRESERVATION AND SECURITY OF LEGAL MATERIAL
IN OFFICIAL ELECTRONIC RECORD.**

(a) An official publisher of legal material in an electronic record that is or was designated as official under Section []-4 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) of this section in an electronic record, the official publisher shall:

- (1) Ensure the integrity of the record;
- (2) Provide for backup and disaster recovery of the record; and
- (3) Ensure the continuing usability of the material.

**"SECTION []-8. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL
ELECTRONIC RECORD.**

An official publisher of legal material in an electronic record that is required to be preserved under Section []-7 shall ensure that the material is reasonably available for use by the public on a permanent basis.

"SECTION []-9. STANDARDS.

In implementing this [Chapter], an official publisher of legal material in an electronic record shall consider:

- (1) Standards and practices of other jurisdictions;
- (2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;

(3) The needs of users of legal material in an electronic record;

(4) The views of governmental officials and entities and other interested persons; and

(5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this [Chapter].

"SECTION []-10. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"SECTION []-11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This [Chapter] modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ~~Section §~~ 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. ~~Section §~~ 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. ~~Section §~~ 7003(b)."

SECTION 2. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Revised Uniform Fiduciary Access to Digital Assets Act (2015) and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 3. This act is effective when it becomes law.

[Staff note: Additional conforming amendments will be needed, but these have not yet been incorporated.]